IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

Bail Appl..No. 6777 of 2007()

CRMP.3581/2007 of II ADDL. DISTRICT COURT, PALAKKAD

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(AGAINST CRIME NO.181/;2007, WALAYAR POLICE STATION)

PETITIONERS/ACCUSED 1,3,4 8& 6:

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1. **SHAHIN, AGED 18 YEARS, S/O.ABDUL KHADER, KUNDUPADAM, KANCHIKODE, PALAKKAD.**
2. **MANIKANDAN, AGED 23 YEARS, S/O.KRISHNAN, GANESHAPURAM, ATTAPALLAM, PALAKKAD.**
3. **BINU, AGED 23 YEARS, S/O.BALAN, MUCKARONI, KANCHIKODE, PALAKKAD.**
4. **VINOD KUMAR, AGED 28 YEARS, S/O.MUTHUVELAN, BUNGLAVU PARAMBU HOUSE, KANCHIKODE, PALAKKAD.**

BY ADV. SRI.H.BADARUDDIN

RESPONDENTS: COMPLAINANT & STATE:

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1. **THE STATION HOUSE OFFICER, WALAYAR POLICE STATION, PALAKKAD.**
2. **THE STATE OF KERALA, REPRESENTED BY THE GOVERNMENT PLEADER, HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07/11/2007 ALONG WITH B.A.NO.6800 OF 2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R.BASANT, J

B.A.Nos.6777 and 6800 of 2007

Dated this the 7th day of November, 2007

ORDER

These applications are for regular bail. The petitioners are accused 1, 3, 4, 6, 8 & 9. They face allegations under Section 399 I.P.C and Section 27 of the Arms Act. All the other petitioners except accused No.9, were arrested on 27.09.07. The 9th accused was arrested on 29.9.07. They continue in custody from that date. Another co-accused, ie. the 5th accused was released on bail subject to conditions by order dated 6.11.07 in B.A.No.6664 of 2007 notwithstanding the opposition of the learned Public Prosecutor . The petitioners pray that the petitioners may also now be granted regular bail subject to appropriate conditions.

2. The learned Public Prosecutor opposes the application in so far as it relates to the other accused. So far as the 9th accused is concerned, for whom, there is no history of any criminal antecedents, the learned Public Prosecutor only submits that appropriate conditions may be imposed. The allegation against him is only that he along with the 10th accused had furnished the weapons in question to the other accused. In so far as accused 1, 3, 4, 6 & 8 are concerned, the learned Public Prosecutor opposes the application vehemently on the ground that they are involved in many other cases. Their criminal antecedents may not be lost sight of. They may not be enlarged on

bail at this early stage of investigation. Investigators in a serious crime like this may be granted reasonable time to complete the investigation, submits the learned Public Prosecutor .

3. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor . Allegations are serious. The criminal antecedents of the petitioners cannot be ignored. The crux of the allegations against them in the present crime is that the police party on receipt of prior information went to the house of the 1st accused. Accused 1 to 8 were found present in the premises. They were taken into custody. There were 7 swords and knives in the house in question. It is in these circumstances that they were arrested and allegations under Section 399 I.P.C and Section 27 of the Arms Act were raised against them.

4. I find merit in the opposition by the learned Public Prosecutor . So far as the 9th accused is concerned, I am satisfied that bail can be granted to him subject to identical conditions as were imposed on the 5th accused.

5. In the result:

1) B.A.No.6777 of 2007 is dismissed. The petitioners, whose bail applications are hereby rejected, shall be at liberty to move this Court for bail again at a later stage of the investigation not at any rate prior to 21.11.07.

2) B.A.No.6800 of 2007 is allowed in part. The 9th accused shall be released on bail on the following terms and conditions.

i) The 2nd petitioner/9th accused shall not be released on the strength of this order prior to 16.11.2007. The Investigators shall in the meantime make every endeavour to complete the investigation.

ii) The 2nd petitioner/9th accused shall execute a bond for Rs.1,00,000/- (Rupees One lakh only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

iii) The 2nd petitioner/9th accused shall make himself available for interrogation before the Investigating Officer between 10 a.m and 12 noon on all Mondays and Fridays for a period of 2 months from the date of his release and thereafter as and when directed by the Investigating Officer in writing to do so;

iv) During the said period of two months, the 2nd petitioner/9th accused shall not leave the jurisdiction of Walayar Police Station. He shall keep the Investigating Officer informed of the address of his place of residence and change in address, if any.

(R.BASANT, JUDGE)

rtr/-